

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

IN THE MATTER OF: ) ADMINISTRATIVE ORDER ON  
MONTROSE CHEMICAL NPL SITE ) CONSENT FOR REMOVAL ACTION  
SEWER REMOVAL ACTION ) U.S. EPA Region 9  
 ) CERCLA  
 ) Docket No. 96-12  
COUNTY SANITATION DISTRICT No. 2 ) Proceeding Under Sections 104,  
OF LOS ANGELES COUNTY, et al ) 106(a), 107 and 122 of the  
 ) Comprehensive Environmental  
Respondents ) Response, Compensation, and  
 ) Liability Act, as amended, 42  
 ) U.S.C. §§ 9604, 9606(a), 9607  
 ) and 9622

I. JURISDICTION AND GENERAL PROVISIONS

This Order is entered into voluntarily by the United States Environmental Protection Agency (EPA), and County Sanitation District No. 2 of Los Angeles County, pursuant to the authority conferred upon it by the Amended Joint Outfall Agreement, effective July 1, 1995, and all of the other County Sanitation Districts of Los Angeles (Respondents). Under this Order, the Respondents will provide assistance to EPA and the Montrose Chemical Corporation of California, Inc. (Montrose) during the performance of the removal action in which Montrose will remove DDT contaminated sediment from a portion of the Joint Outfall D sewer line (J.O. D sewer) adjacent to and in the vicinity of the former Montrose Plant Property located at 20201 Normandie Avenue in Los Angeles County, California. This Order requires the Respondents to provide the assistance to EPA and Montrose to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous

1 substances from the Montrose Chemical National Priorities List  
2 Superfund Site (Montrose NPL Site).  
3

4 This Administrative Order on Consent (Order) is issued pursuant to  
5 the authority vested in the President of the United States by  
6 sections 104, 106(a), 107 and 122 of the Comprehensive  
7 Environmental Response, Compensation, and Liability Act of 1980, 42  
8 U.S.C. §§ 9604, 9606(a), 9607 and 9622, as amended (CERCLA), and  
9 delegated to the Administrator of EPA by Executive Order No. 12580,  
10 January 23, 1987, 52 Fed. Reg. 2923, and further delegated to the  
11 EPA Regional Administrators by EPA Delegation No. 14-14-A and 14-  
12 14-C and to the Regional Hazardous Waste Management Division Branch  
13 Chiefs by EPA Region 9 Regional Order 1290.43A.

14  
15 EPA has notified the State of California of the removal action  
16 pursuant to Section 106 (a) of CERCLA, 42 U.S.C. § 9606(a).  
17

18 Respondents' participation in this Order shall not constitute or be  
19 construed as an admission of liability or agreement with EPA's  
20 findings or determinations contained in this Order except in a  
21 proceeding to enforce the terms of this Order. Respondents agree  
22 to comply with and be bound by the terms of this Order.  
23 Respondents further agree that Respondents will not contest the  
24 basis or validity of this Order or its terms.  
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#### IV. FINDINGS OF FACT

1. From 1947 until 1982, the Montrose Chemical Corporation of California, Inc. (Montrose) operated a DDT manufacturing plant (the Montrose plant) at 20201 Normandie Avenue in Los Angeles County, California (the Montrose Plant Property).

2. From 1952 until at least 1971, Montrose discharged wastewater, containing DDT, from its DDT manufacturing process at the Montrose Plant Property into the J.O. D sewer.

3. In 1969, Respondents undertook an investigation to identify and eliminate DDT discharges into Respondents' sewer system. This investigation resulted in the identification of the Montrose plant as the primary source of DDT into that portion of the sewer system that discharges to the ocean through the Whites Point sewer outfalls. Montrose reconfigured its manufacturing operations in 1971 with the intent of eliminating discharges of DDT manufacturing process wastewater to the J.O. D sewer.

4. EPA began its investigation of the Montrose Plant Property in 1981 and listed the Montrose Chemical Site on the CERCLA National Priorities List in 1989. Under an administrative order on consent (U.S. EPA Region 9 CERCLA Docket No. 85-04, as amended), Montrose has been conducting the Remedial Investigation and Feasibility Study for the Montrose Chemical NPL Site since 1985.

1 5. As part of the work required under administrative order 85-04,  
2 Montrose conducted an Engineering Evaluation and Cost Analysis  
3 (EE/CA) of a portion of the J.O. D and District 5 Interceptor  
4 sewers adjacent to and in the vicinity of the Montrose plant  
5 property. The EE/CA estimated that 15,000 pounds of DDT was  
6 present in sewer sediments in the J.O. D sewer between Manhole A468  
7 and Manhole D 32.

8  
9 6. On September 21, 1992, EPA Region 9 issued a CERCLA removal  
10 action memorandum that determined that the DDT contaminated  
11 sediments should be removed from the J.O. D sewer between manholes  
12 A468 and D 32.

13  
14 7. Montrose has agreed to undertake the CERCLA response actions  
15 selected in the EPA CERCLA removal action memorandum dated  
16 September 21, 1992.

17  
18 8. Respondents have voluntarily provided to EPA and Montrose  
19 technical assistance throughout the EE/CA process and during the  
20 planning for the sediment removal action.

21  
22 9. In addition to this Order (issued under EPA's delegated CERCLA  
23 authorities), Respondents have requested that EPA issue to  
24 Respondents a "no-action assurance" letter regarding any EPA claim  
25 arising under the Clean Water Act, 33 U.S.C § 1311 et seq.,  
26 resulting from a release of DDT contaminated sediment from the  
27 relevant portion of the J.O. D sewer to other portions of

1 Respondents sewer system during the duration of the Montrose Work.  
2 EPA has not yet responded to Respondents' request.  
3  
4  
5

6 V. CONCLUSIONS OF LAW  
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8 Based on the Findings of Fact set forth above, and the  
9 Administrative Record supporting this removal action, EPA has  
10 determined that:

11 1. The Montrose Chemical NPL Site is a "facility" as defined by  
12 section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

13 2. The contaminants found at the Site, as identified in the  
14 Findings of Fact above, include "hazardous substances" as defined  
15 by section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

16 3. Respondents are "persons" as defined by section 101(21) of  
17 CERCLA, 42 U.S.C. § 9601(21).

18 4. Respondents may be liable under section 107(a)(1-2) of CERCLA,  
19 42 U.S.C. § 9607(a)(1-2).

20 5. The conditions described in the EPA Region 9 CERCLA Action  
21 Memorandum dated, September 21, 1992, constitute an actual or  
22 threatened release of a hazardous substance from the facility as  
23 described in section 101(22), 42 U.S.C. § 9601(22).

24 6. As set forth in the EPA CERCLA Action Memorandum dated  
25 September 21, 1992, the conditions present at the facility  
26 constitute an imminent and substantial endangerment to public  
27 health, welfare, or the environment.  
28

1 7. The response actions required by this Order are necessary to  
2 protect the public health, welfare, or the environment, and are not  
3 inconsistent with the NCP or CERCLA.

4  
5 VI. ORDER  
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7 Based on the foregoing Findings of Fact, Conclusions of Law,  
8 Determinations, and the Administrative Record for this removal  
9 action, it is hereby ordered and agreed that Respondents shall  
10 comply with the following provisions:  
11

12 1. Designation of Project Coordinator  
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14 Respondents have designated Mr Calvin Jin as their project  
15 coordinator (telephone number 213-685-5217 ext. 1602).  
16

17 EPA has designated Jeff Dhont as its Remedial Program Manager for  
18 the Site Sewer Removal Action (telephone number 415-744-2399). Mr.  
19 Dhont or his designee shall have all authority granted to an on-  
20 scene coordinator under CERCLA and the National Contingency Plan,  
21 40 C.F.R. Part 300.  
22

23 EPA and Respondents shall have the right to change their designated  
24 representatives under this section. Respondents shall notify EPA  
25 forty eight hours prior to making such a change.  
26

27 2. Work to be Performed  
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1 Respondents shall perform at a minimum, the following response  
2 actions to assist EPA and Montrose in completing the Montrose Work:  
3

4 (a) Respondents shall temporarily divert flow from the relevant  
5 portion of the J.O. D sewer line by placing, maintaining and  
6 removing stop logs and inflatable plugs;

7 (b) Respondents will review bulkhead designs prepared by Montrose  
8 and provide consultation and recommendations as to needed changes  
9 to the designs;

10 (c) Respondents will allow EPA, its contractors and designees  
11 access to the relevant portion of the J.O. D sewer line during the  
12 Montrose Work;

13 (d) Respondents will allow Montrose and its contractors access,  
14 pursuant to a private access agreement signed by Montrose and  
15 Respondents, to the relevant portion of the J.O. D sewer line in  
16 order that Montrose may conduct the Montrose Work between June 18,  
17 1996 and October 15, 1996;

18 (e) Based on its expertise, and knowledge of the operation of the  
19 relevant portion of the J.O. D sewer, Respondents will provide  
20 technical assistance and consultation to Montrose during the  
21 sediment removal project that in the opinion of Respondents will  
22 assist Montrose in the safe, prudent and timely completion of the  
23 project;

24 (f) Respondents will provide assistance to Montrose and EPA in the  
25 event of a release of DDT contaminated sediment to other portions  
26 of the LACSD sewer system during the time period (beginning on June  
27 13, 1996 and concluding on or before October 15, 1996) Montrose is



1 conducting the Montrose Work;

2 (g) Respondents shall direct Montrose, subject to approval by EPA,  
3 in the temporary pumping of sewage flow from the relevant portion  
4 of the J.O. D sewer to other sewer structures as necessary,  
5 including the District 5 Interceptor sewer and the "Relief  
6 Structure", including assessing pressures, volumes and stresses of  
7 flow on sewer walls, siphons, bulkhead and inflatable plugs; and

8 (h) Respondents will, in conducting the work required under this  
9 Order, cooperate fully with EPA in order to assist in the timely  
10 completion of the Montrose Work.

11  
12 2.1 Work Plan

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14 Respondents have received and reviewed the Removal Action Plan  
15 dated May 24, 1996 prepared by McLaren/Hart on behalf of Montrose.

16  
17 2.2 Final Report

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19 Within thirty days (30) after completion of all removal actions,  
20 Respondents shall submit to EPA a report documenting completion of  
21 the work required under Section 2 above.

22  
23 3. Access to Property and Information

24  
25 Respondents shall provide access to the relevant portion of the  
26 J.O. D sewer to EPA employees, its contractors, consultants and  
27 designees for the period Montrose is conducting the Montrose Work.

1 Respondents shall also provide, upon request from EPA, access to  
2 all records and documentation related to the condition of and  
3 conditions in the relevant portion of the J.O. D sewer, whether  
4 pre-existing or obtained during removal action. Respondents shall  
5 submit to EPA, upon request, the results of all sampling or tests  
6 and all other data generated by Respondents or on Respondents'  
7 behalf during the implementation of this Order.

8  
9 4. Record Retention

10  
11 Respondents shall preserve all documents and information relating  
12 to work performed under this Order, or relating to the hazardous  
13 substances found in or released from the relevant portion of the  
14 J.O. D sewer, for ten (10) years following completion of the work  
15 required under this Order. At the end of this ten (10) year period  
16 and thirty (30) days before any such information is destroyed,  
17 Respondents shall notify EPA that such documents and information  
18 are available to EPA for inspection and upon request, shall provide  
19 the originals or copies of such documents and information to EPA.

20  
21 Respondents may assert a business confidentiality claim pursuant to  
22 40 C.F.R. § 2.203(b) with respect to part or all of any information  
23 submitted to EPA pursuant to this Order, provided such claim is  
24 allowed by section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). If  
25 no such claim accompanies the information when it is received by  
26 EPA, EPA may make it available to the public without further notice  
27 to Respondents.

1 6. Compliance with Other Laws

2  
3 Respondents shall perform all action required pursuant to this  
4 Order in accordance with all applicable local, state and federal  
5 laws and regulations, except as provided in CERCLA section 121(e)  
6 and 40 C.F.R. section 300.415(i) and as determined by EPA.  
7

8 7. Emergency Response and Notification of Releases

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10 If any incident, or change in site conditions, during the Montrose  
11 Work in the relevant portion of the J.O. D sewer, causes of  
12 threatens to cause an additional release of hazardous substances  
13 from the relevant portion of the J.O. D sewer or an endangerment  
14 to the public health, welfare or the environment, Respondents  
15 shall immediately take all appropriate action and coordinate any  
16 such action with EPA and Montrose. Respondents shall immediately  
17 notify the EPA RPM, Jeff Dhont, or in the event of his  
18 unavailability, shall notify the EPA Regional Duty Officer at (415)  
19 744-2000 of the incident or site conditions.  
20

21 In addition, in the event of any release of a hazardous substance  
22 from the relevant portion of the J.O. D sewer, Respondents shall  
23 immediately notify the EPA Regional Duty Officer at (415) 744-2000  
24 and the national Response Center at 800 424-8802. Respondents  
25 shall submit a written report to EPA within seven days of any  
26 incident or release setting forth the events that occurred and the  
27 measures taken by Respondents to respond to the incident or  
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1 release. This reporting requirement is in addition to reporting  
2 under CERCLA section 103(c) and section 304 of the Emergency  
3 Reporting and Community Right to Know Act of 1986, 42 U.S.C. §§  
4 1101 et seq.

5  
6 VII. AUTHORITY OF THE EPA REMEDIAL PROJECT MANAGER  
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8 The EPA Remedial Project Manager (RPM) shall be responsible for  
9 overseeing the Respondents' implementation of the work required  
10 under this Order. The RPM shall have the authority vested in an  
11 EPA on-scene coordinator under the National Contingency Plan, 40  
12 C.F.R. Part 300, including the authority to halt, conduct or direct  
13 any work required under this Order, including but not limited to  
14 actions pursuant Section VI. 7, Emergency Response.

15  
16 VIII. Stipulated and Statutory Penalties  
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18 For each day, or portion thereof, that Respondents fail to perform,  
19 fully, any requirement of this Order, Respondents shall be liable  
20 for the stipulated penalty of \$100 per day of non-compliance. Upon  
21 receipt of written demand by EPA, Respondents shall make payment to  
22 EPA within thirty calendar days, in the manner established by EPA.  
23 Interest shall accrue on late payments as of the date the payment  
24 is due which is the date of the violation or act of non-compliance  
25 triggering the stipulated penalties.

1 Violation of any provision of this Order may subject Respondents to  
2 civil penalties as provided under section 106(b)(1) of CERCLA, 42  
3 U.S.C. § 9606(b)(1). Respondents may also be subject to punitive  
4 damages in an amount up to three times the amount of any cost  
5 incurred by the United States as a result of such violation, as  
6 provided in section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3).  
7 Should Respondents violate this Order or any portion thereof, EPA  
8 may carry out the required actions unilaterally and/or seek  
9 judicial enforcement of this Order pursuant to section 106 of  
10 CERCLA, 42 U.S.C. § 9606.

#### 11 12 IX. RESERVATION OF RIGHTS 13

14 Except as specifically provided in this Order, nothing herein shall  
15 limit the power and authority of EPA or the United States to take,  
16 direct, or order all actions necessary to protect public health,  
17 welfare or the environment or to prevent, abate, or minimize actual  
18 or threatened release of hazardous substances, pollutants or  
19 contaminants or hazardous or solid waste at or from the relevant  
20 portion of the J.O. D sewer. Further, nothing herein shall prevent  
21 EPA from seeking legal or equitable relief to enforce the terms of  
22 this Order, from taking other legal or equitable actions as it  
23 deems appropriate and necessary, or from requiring the Respondents  
24 to perform additional activities pursuant to CERCLA or any other  
25 applicable law.

X. OTHER CLAIMS

By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents, Montrose, their consultants, or agents. The United States or EPA shall not be deemed a party to any contract entered into by Respondents, its contractors or consultants in carrying out actions pursuant to this Order.

Except as provided in Section XIII., Covenant Not to Sue, nothing in this Order constitutes a satisfaction or release from any claim or cause of action against Respondents or any other person not a party to this Order, for liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under sections 106(a) and 107(a) of CERCLA, 42 U.S.C. § 9606(a) and § 9607(a).

This Order does not constitute a preauthorization of funds under section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). The Respondents waive any and all claims to payment under sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. §§ 9606(b), 9611 and 9612, against the United States or the Hazardous Substance Superfund arising out of any action performed under this Order.

1 No action or decision by EPA pursuant to this Order shall give rise  
2 to any right to judicial review except as set forth in section  
3 113(h) of CERCLA, 42 U.S.C. § 9613(h).  
4

5 XI. MODIFICATIONS  
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7 Modifications to any plan or schedule may be made in writing by the  
8 EPA RPM or at the RPM's oral direction. If the RPM makes an oral  
9 modification, it will be memorialized in writing within two (2)  
10 days; provided, however, that the effective date of the  
11 modification shall be the date of the RPM's oral direction. Any  
12 other requirements of the Order may be modified in writing by  
13 mutual agreement of the parties.  
14

15 If Respondents seek permission to deviate from any EPA work plan  
16 or schedule, Respondents' Project Coordinator shall submit a  
17 written request to EPA for approval outlining the proposed  
18 modification and its basis.  
19

20 No informal guidance, advice, suggestion, or comment by EPA  
21 regarding reports, plans, specifications, schedules, or any other  
22 writing submitted by the Respondents shall relieve the Respondents  
23 of Respondents' obligation to obtain such formal approval as may be  
24 required by this Order, and to comply with all requirements of this  
25 Order unless it is formally modified.  
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1 XII. NOTICE OF COMPLETION

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3 When EPA determines, after EPA's review of Respondents' Final  
4 Report, that all response actions have been fully performed by  
5 Respondents in accordance with this Order, with the exception of  
6 any continuing obligations required by this Order, EPA will provide  
7 notice to the Respondents.  
8

9 XIII. COVENANT NOT TO SUE

10 Except as otherwise provided in this Order, EPA covenants not to  
11 sue Respondents for response costs incurred by EPA with respect to  
12 the Montrose Work for the period during which Montrose is  
13 conducting the Montrose Work. This covenant not to sue is  
14 conditioned upon the complete and satisfactory performance by  
15 Respondents of Respondents' obligations under this Order. This  
16 covenant not to sue extends only to Respondents and does not extend  
17 to any other person.  
18

19 XIV. RESERVATIONS

20  
21 The covenant not to sue set out in Section XIII. of this Order  
22 pertains only to matters expressly specified therein, and extends  
23 only to Respondents. Any claim or defense which EPA may have  
24 against any other person is expressly reserved. EPA reserves and  
25 this Order is without prejudice to all other rights and claims  
26 against the Respondents with respect to all other matters,  
27 including but not limited to:  
28



1 1. Any and all claims against Respondents based on or resulting  
2 from a failure to meet a requirement of this Order:

3 2. Any claim for criminal liability; and

4 3. Any claim for violation of any other federal law or permit,  
5 including but not limited to violations of the Clean Water Act, 33  
6 U.S.C. § 1311, et seq., and any NPDES permit issued thereunder.

7  
8 XVI. CONTRIBUTION PROTECTION

9  
10 With regard to claims for contribution against Respondents for  
11 matters addressed in this Order, the Parties hereto agree that  
12 Respondents are entitled to protection from contribution actions or  
13 claims to the extent provided by section 113(f) and 122(h)(4) of  
14 CERCLA, 42 U.S.C. § 9613(f) and § 9622(h)(4). Nothing in this  
15 Order precludes the United States or the Respondents from asserting  
16 claims, causes of action or demands against persons not parties to  
17 this Order for cost recovery, contribution or indemnification.

18  
19 XVII. SEVERABILITY

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21 If a court issues an order that invalidates any provision of this  
22 Order or finds that Respondents have sufficient cause not to comply  
23 with one or more provisions of this Order, Respondents shall remain  
24 bound to comply with all provisions of this Order not invalidated  
25 or determined to be subject to a sufficient cause defense by the  
26 court's order.

XVIII. EFFECTIVE DATE

This Order shall be effective on the day the Order is signed by EPA.

The undersigned representative of the Respondents certifies that he is fully authorized to enter into the terms and conditions of this Order and to bind the parties he represents to this document.

Agreed this <sup>4</sup>19 day of June, 1996.

FOR RESPONDENTS

By



Title: Chief Engineer and General Manager

County Sanitation District No. 2

Of Los Angeles County

1 It is so ORDERED and Agreed this <sup>19th</sup> day of June 1996.

2  
3 By:

John BC - for

Date:

6/19/96

4 Nancy Lindsay

5 Chief

6 Superfund Enforcement Branch  
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